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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,124	03/15/2004	James W. Forbes	200405.00038	9174

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EXAMINER
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OLSON, LARS A

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 04/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/801,124

Applicant(s)

FORBES, JAMES W.

Examiner

Lars A Olson

Art Unit

3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 January 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 54-56 is/are allowed.
- 6) ☒ Claim(s) 1-15, 18-40, 45 and 51-53 is/are rejected.
- 7) ☒ Claim(s) 16, 17, 41-44 and 46-50 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. An amendment was received from the applicant on January 24, 2005.

#### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 5 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 5 discloses bulkheads that have a height exceeding AAR Plate C. Since industry standards are subject to change, the height of the disclosed bulkheads is considered by the examiner to be boundless.

5. Claim 6 discloses bulkheads that fall within AAR Plate F. Since industry standards are subject to change, the size of the disclosed bulkheads is considered by the examiner to be boundless.

#### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent

granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1, 3, 4, 7-13, 15, 18-25, 45 and 51-53 are rejected under 35

U.S.C. 102(e) as being anticipated by Clark et al. (US 6,470,808).

Clark et al. discloses the same center beam railroad car as claimed, as shown in Figures 1-13, that is comprised of a deck structure for carrying vertical loads, defined as Part #10 in Figure 3, said deck structure being carried by a pair of trucks, defined as Part #16, said deck structure having first and second end portions, defined as Part #42, and a medial portion, defined as Part #40, that is disposed between said first and second end portions, said first and second end portions being stepped upwardly relative to said medial portion, first and second end bulkheads, defined as Part #14, that extend upwardly from opposite ends of said deck structure, and a center beam assembly, defined as Part #12, that runs lengthwise along said railroad car between said end bulkheads and stands upwardly of said deck structure, where at least one of said first and second end portions of said deck structure is stepped upwardly relative to said medial portion by a distance of at least 30 inches, as described in lines 55-61 of column 4, for accommodating bundles of wood products. Said center beam assembly is further comprised of a top chord member, defined as Part #32, and a plurality of vertical posts, defined as Part #34, with diagonal braces, defined as Part #36, that extend upwardly from said deck structure. Winches, defined as Part #30, are also mounted along said deck structure, said winches being operable to tighten bundles of lading next to said center beam assembly. Said medial portion of said deck structure can be as

long as 40 feet, and said first and second end portions can be as long as 16 feet each, as described in lines 41-52 of column 4. Said deck structure also includes transition sections that join side sills of said medial portion to first and second side sill portions, as shown in Figure 9, and a transition bulkhead that extends upwardly from said medial portion to an adjacent end portion, as shown in Figure 13.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 2, 5, 6, 14 and 26-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clark et al.

Clark et al., as set forth above, discloses all of the features claimed except for the use of end portions of a deck structure that are stepped upwardly from a medial portion by a distance of about 33.625 inches, end bulkheads with a height exceeding AAR Plate C, vertical posts of a center beam assembly with flanges having smoothly radiused edges, end portions of a deck structure with load bearing interfaces or deck sheets lying more than 42 inches above top of rail (TOR), and end portions of a deck structure with deck lading interfaces or deck sheets carried between 52.5 and 54.5 inches above TOR.

The use of end portions of a deck structure on a railroad car that are stepped upwardly from a medial portion by a distance of about 33.625 inches, end bulkheads with a height exceeding AAR Plate C, vertical posts of a center beam assembly with flanges having smoothly radiused edges, end portions of a deck structure with load bearing interfaces or deck sheets lying more than 42 inches above top of rail (TOR), and end portions of a deck structure with deck lading interfaces or deck sheets carried between 52.5 and 54.5 inches above TOR, would all be considered by one of ordinary skill in the art to be design choices based upon the desired load to be carried by said railroad car, and the required size of said railroad car in order for it to support the desired load.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to utilize the design choices as described above in combination with the center beam railroad car as disclosed by Clark et al. for the purpose of providing a center beam railroad car that is capable of carrying greater sized loads.

10. Claims 31-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clark et al. in view of Dominguez et al. (US 4,951,575).

Clark et al., as set forth above, discloses all of the features claimed except for the use of a coupler that is mounted to said railroad car, an end deck portion of said deck structure that is disposed 18.5 to 20.5 inches above a coupler centerline, a draft pocket defined between a pair of webs below a draft pocket cap plate, a bolster having an upper flange that extends in a plane above said draft pocket cap plate, and an end

portion of said deck structure with a lading support interface between 10.5 and 12.5 inches above said draft pocket cap plate.

Dominguez et al. discloses a depressed center beam railroad car, as shown in Figures 1-10, that includes a coupler, defined as Part #23, that is mounted in a draft pocket, defined as Part #22, and a draft pocket cap plate, as shown in Figure 5, that is mounted within a center sill end portion between a pair of spaced apart webs, where said draft pocket cap plate is situated at a lower level than a deck sheet or bolster, defined as Part #66.

The use of an end deck portion of said deck structure that is disposed 18.5 to 20.5 inches above a coupler centerline, and an end portion of said deck structure with a lading support interface between 10.5 and 12.5 inches above said draft pocket cap plate, would be considered by one of ordinary skill in the art to be design choices based upon the desired load to be carried by said railroad car, and the required size of said railroad car in order for it to support the desired load.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to utilize a coupler mounted within a draft pocket that includes a draft pocket cap plate that is situated below a bolster or deck sheet, as taught by Dominguez et al., in combination with the center beam railroad car as disclosed by Clark et al. for the purpose of providing a center beam railroad car that is capable of carrying greater sized loads.

***Allowable Subject Matter***

11. Claims 54-56 are allowed.
12. Claims 16, 17, 41-44 and 46-50 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

13. Applicant's arguments filed on January 24, 2005 regarding claims 1-15, 18-40, 45 and 51-53 have been fully considered but they are not persuasive.
14. The applicant argues that neither Clark et al. (US 6,470,808) or Dominguez et al. (US 4,951,575), nor a combination of the two references, shows all of the features claimed by the applicant.
15. In response to this argument, Clark et al. discloses a center beam railroad car that is comprised of a deck structure that is carried by a pair of trucks, said deck structure having first and second end portions and a medial portion that is disposed between said first and second end portions, first and second end bulkheads, and a center beam assembly that runs lengthwise along said railroad car between said end bulkheads, where at least one of said first and second end portions of said deck structure is stepped upwardly relative to said medial portion by a distance of at least 30 inches. Dominguez et al. discloses a depressed center beam railroad car that includes a coupler that is mounted in a draft pocket, and a draft pocket cap plate that is mounted within a center sill end portion between a pair of spaced apart webs, where said draft



pocket cap plate is situated at a lower level than a deck sheet or bolster. Since Clark et al. and Dominguez et al. both disclose center beam railroad cars with depressed center portions for increased volume capacity, there is sufficient motivation to combine the features disclosed by Dominguez et al with the railroad car as disclosed by Clark et al. Also, the variation of an upward step of a medial portion of a depressed center beam railroad car from 30 inches to 33.625 inches, or any other minor dimensional variation, would be considered to be a design choice by one of ordinary skill in the art for the purpose of providing a depressed center beam railroad car that is physically proportioned to carry a desired load of a specific size and weight. Therefore, the rejection of claims 1-15, 18-40, 45 and 51-53 is deemed proper and is not withdrawn.

### ***Conclusion***

16. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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17. Any inquiry concerning this communication from the examiner should be directed to Exr. Lars Olson whose telephone number is (703) 308-9807.

lo

March 25, 2005

**LARS A. OLSON**  
**PRIMARY EXAMINER**

*Lars Olson*  
3/25/05